

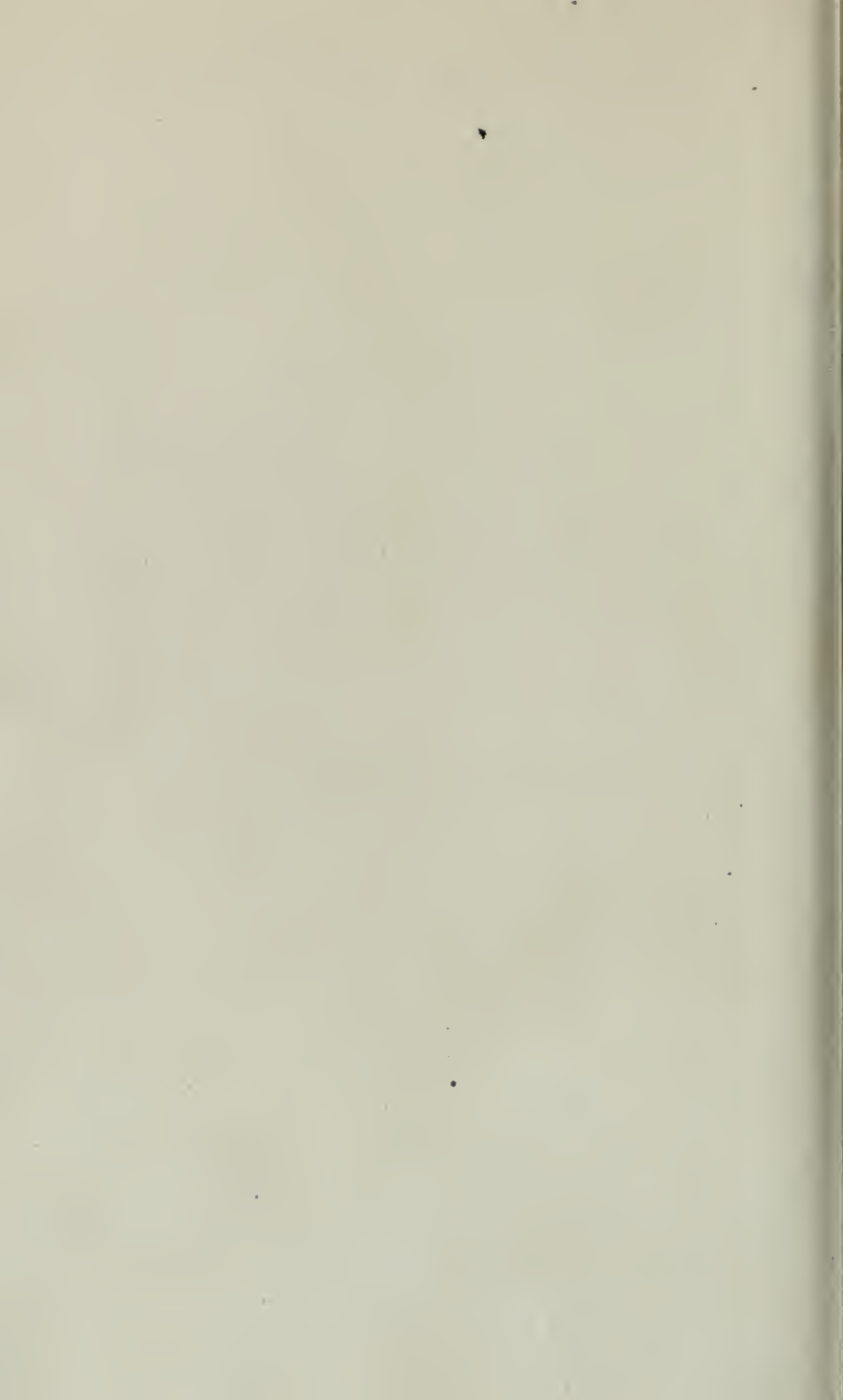
United States
Circuit Court of Appeals
For the Ninth Circuit.

WESLEY LEROY SISCHO,
Plaintiff in Error,
vs.
THE UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of
the Western District of Washington, Northern Division.

FILED
DEC 1 - 1923
F. D. BARNETT

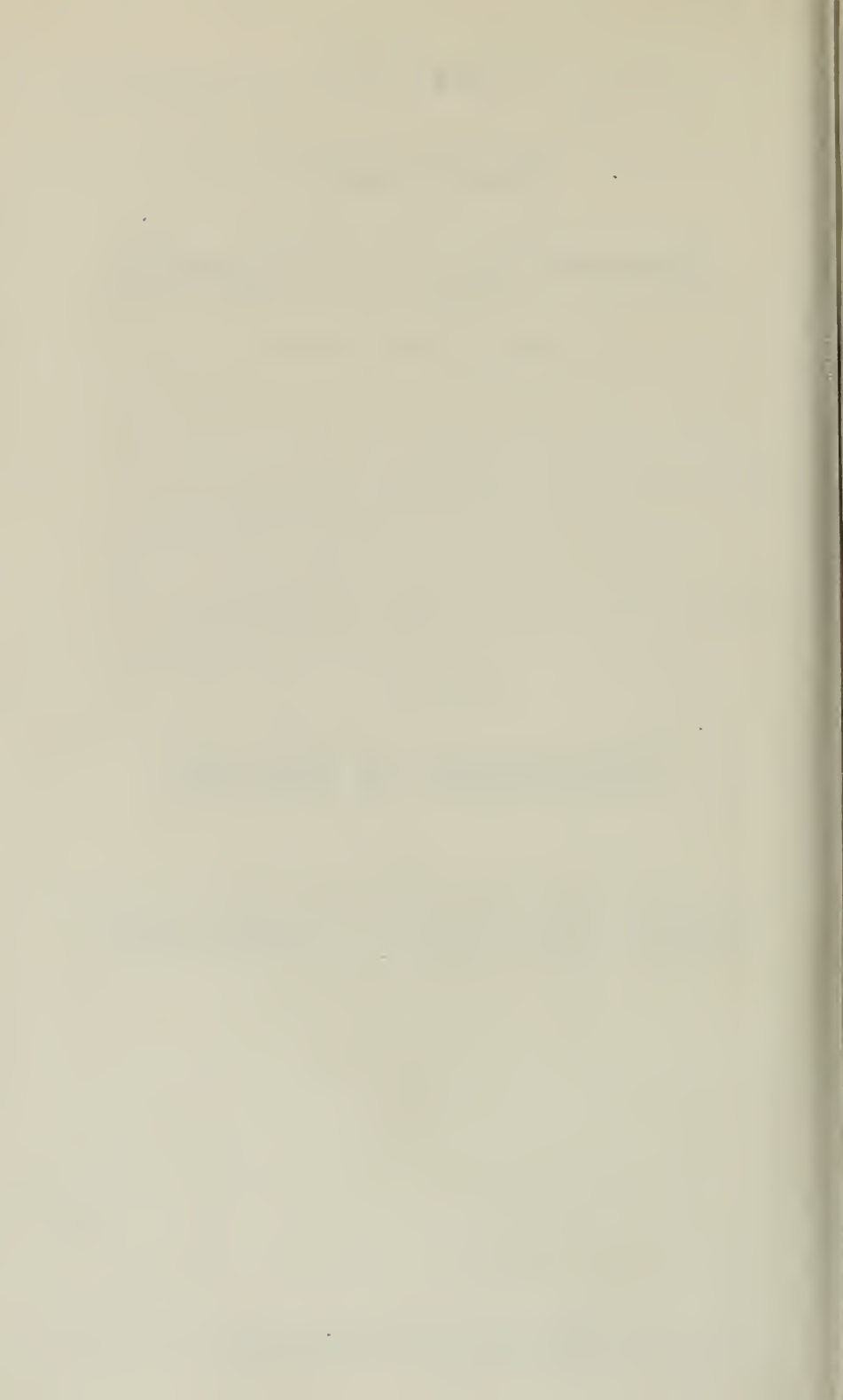


United States
Circuit Court of Appeals
For the Ninth Circuit.

WESLEY LEROY SISCHO,
Plaintiff in Error,
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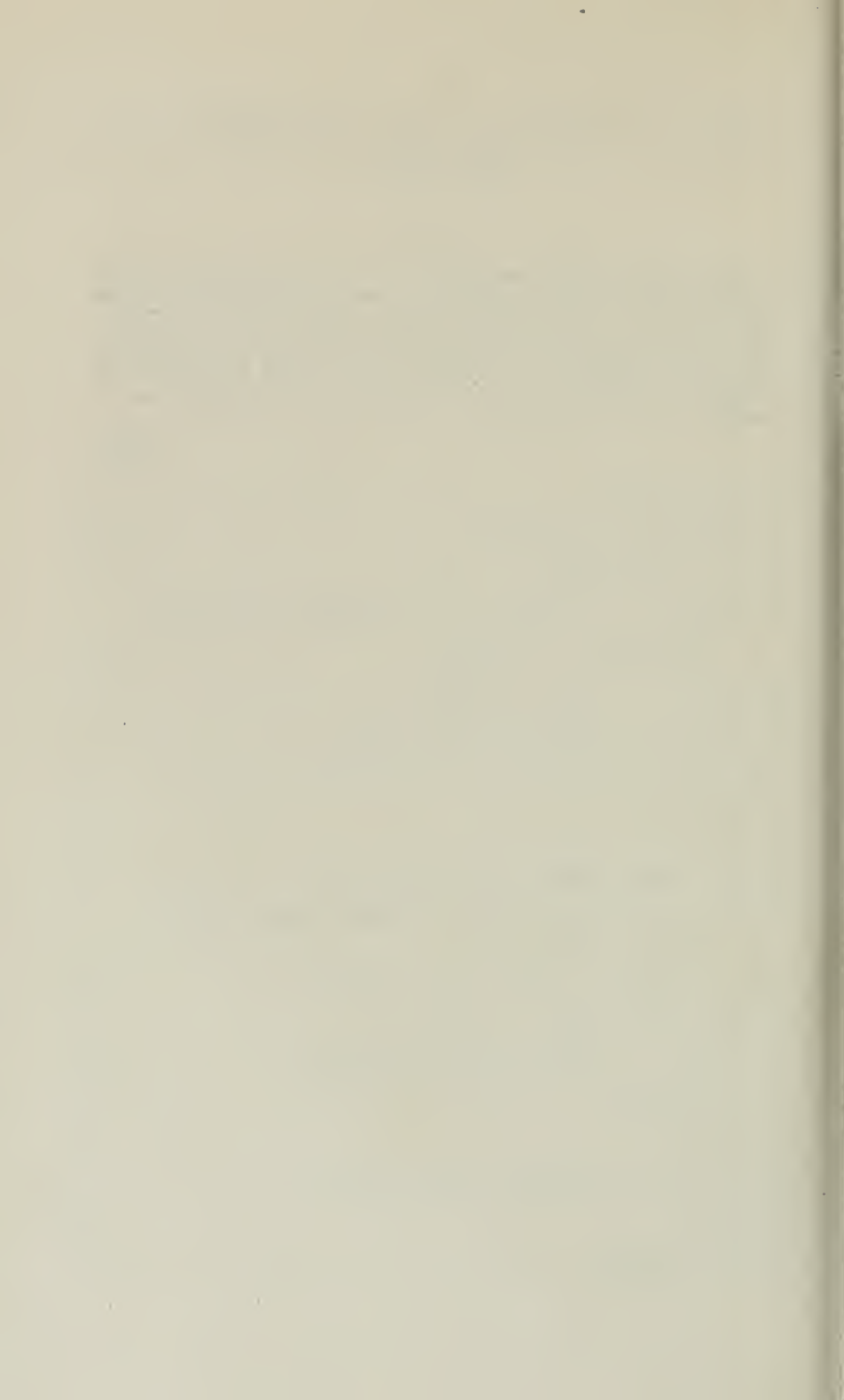
Upon Writ of Error to the United States District Court of
the Western District of Washington, Northern Division.



INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Names and Addresses of Counsel.

W. E. BARNHART, Esq., Attorney for Plaintiff
in Error,

805 Leary Building, Seattle, Washington.

THOMAS P. REVELLE, Esq., United States At-
torney, Attorney for Defendant in Error,

310 Federal Building, Seattle, Washington.

C. E. HUGHES, Esq., Assistant United States At-
torney, Attorney for Defendant in Error,

310 Federal Building, Seattle, Washington.

[1*]

United States District Court, Western District of
Washington, Northern Division.

November, 1922, Term.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Indictment.

Vio. Narcotic Drugs Import and Export Act.

United States of America,

Western District of Washington,

Northern Division,—ss.

The grand jurors of the United States of Am-
erica, being duly selected, impaneled, sworn and

*Page-number appearing at foot of page of original certified Tran-
script of Record.

charged to inquire within and for the Northern Division of the Western District of Washington, upon their oaths present:

COUNT I.

That WESLEY L. SISCHO, on the twenty-second day of November, in the year of our Lord, one thousand nine hundred and twenty-two, at the City of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, then and there being, did then and there knowingly, wilfully, unlawfully and fraudulently, and contrary to the law import and bring into the United States from a foreign place to these grand jurors unknown, a certain quantity, to wit, two hundred forty-eight (248) tins each containing five (5) tael of a certain preparation of opium, to wit, opium prepared for smoking, a more particular description thereof being to these grand jurors unknown; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [2]

COUNT II.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That WESLEY L. SISCHO, on the twenty-second day of November, in the year of our Lord one thousand nine hundred and twenty-two, at the City of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, then and there being, did then and there knowingly, wilfully, unlawfully,

feloniously and fraudulently buy, receive, and conceal a certain quantity, to wit, two hundred forty-eight tins each containing five (5) taels of a certain preparation of opium, to wit, opium prepared for smoking, a more particular description thereof being to these grand jurors unknown, said preparation of opium prepared for smoking theretofore having been knowingly, wilfully, unlawfully, feloniously and fraudulently and contrary to law imported and brought from a foreign place to these grand jurors unknown into the United States as he, the said WESLEY L. SISCHO, at the time of said buying, receiving and concealing well knew; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

THOS. P. REVELLE,

United States Attorney.

C. E. HUGHES,

Assistant United States Attorney.

[Endorsed]: A True Bill. Byron Phelps, Foreman Grand Jury. Presented to the Court by the Foreman of the Grand Jury in open court, in the presence of the Grand Jury, and filed in the U. S. District Court, December 19, 1922. F. M. Harshberger, Clerk. [3]

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United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Arraignment.

Now on this 8th day of January, 1923, the above defendant comes into open court for arraignment accompanied by his attorney, J. J. Sullivan, and says that his true name is Wesley L. Sischo, whereupon he is allowed one week in which to plead.

Journal #10, page 458. [4]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Hearing on Demurrer and Plea.

Now on this 15th day of January, 1923, this cause comes on for hearing on demurrer and plea.

Defendant is present accompanied by his counsel and here and now enters his plea of not guilty. Demurrer is waived and trial is set for January 23, 1923.

Journal #10, page 474. [5]

In the District Court of the United States for the
Western District of Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Verdict.

We, the jury in the above-entitled cause, find the defendant Wesley L. Sischo is guilty, as charged in Count I of the indictment herein; and further find the defendant Wesley L. Sischo is guilty, as charged in Count II of the indictment herein.

BERT KINCAID,

Foreman.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. April 20, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [6]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Motion for New Trial.

Comes now the defendant herein by John F. Dore and John J. Sullivan, his attorneys, and moves the Court to set aside the verdict of the jury rendered herein and to grant a new trial, and for reasons thereof shows to the Court the following:

I.

The verdict is contrary to the law of the case.

II.

The verdict is not supported by the evidence in the case.

III.

The Court upon the trial of the case admitted incompetent evidence offered by the United States.

IV.

The Court upon the trial of the case excluded competent evidence offered by the defendant.

V.

The Court improperly instructed the jury to the defendant's prejudice.

VI.

The Court improperly refused to defendant's

prejudice, to give correct instructions tendered and offered by the defendant.

VII.

Misconduct of counsel for the Government in his remarks to [7] the jury duly excepted to by defendant.

Dated this 23d day of April, 1923.

JOHN F. DORE and
JOHN J. SULLIVAN,
Attorneys for Defendant.

Service duly made.

C. E. HUGHES,
Asst. U. S. Atty.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 23, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [8]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Hearing on Motion for New Trial.

Now on this 23d day of April, 1923, the above cause comes on for hearing on motion for new

trial, with John J. Sullivan appearing as attorney for the defendant. Said motion is denied and sentence is passed at this time.

Journal #11, page 116. [9]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Sentence.

Comes now on this 23d day of April, 1923, the said defendant Wesley L. Sischo, into open court for sentence and being informed by the Court of the charges herein against him and of his conviction of record herein he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him and he nothing says save as he before hath said. Wherefore, by reason of the law and the premises, it is considered, ordered and adjudged by the court that the defendant is guilty of violating the Narcotic Drugs Import and Export Act and that he be punished by being imprisoned in the United States Penitentiary at McNeil Island, Pierce County, Washington, or in such other place as may be here-

after provided for the imprisonment of offenders against the laws of the United States, for the term of seven years on each of counts I and II of the indictment, terms to run concurrently, at hard labor, and to pay a fine of \$2000.00 dollars on each of counts I and II of the indictment. And the said defendant Wesley L. Sischo is now hereby ordered into the custody of the United States Marshal to carry this sentence into execution.

Judgment & Decree #3, page 418. [10]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Petition for Writ of Error.

In the Above-entitled Court, and to the Honorable
EDWARD E. CUSHMAN, Judge Thereof:

Comes now the above-named defendant and by his attorneys and counsel respectfully shows that on the 19th day of April, 1923, a jury impaneled in the above-entitled court and cause, returned a verdict finding the above-named defendant guilty of the indictment theretofore filed in the above-entitled court and cause, and thereafter, within the

time limited by law, under rules and order of this court, the defendant moved for a new trial, which said motion was by the court overruled, and exception thereto allowed, and thereafter, on the 23d day of April, said defendant was, by order and judgment and sentence of the above-entitled Court in said cause sentenced to imprisonment for seven years, and a fine of two thousand dollars on each of the two counts of the indictment.

And your petitioner herein, feeling himself aggrieved by said verdict and the judgment and sentence of the court entered herein as aforesaid, and by the orders and rulings of said court, and proceedings in said cause, now herewith petitions this court for an order allowing him to prosecute a writ of error from said judgment and sentence to the Circuit Court of Appeals of the United States for the Ninth Circuit under the laws of the United States, and in accordance with the procedure of said court made and provided, to the end [11] that the said proceedings as herein recited, and as more fully set forth in the assignments of error presented herein, may be reviewed and the manifest error appearing upon the face of the record of said proceedings, and upon the trial of said cause, may be by said Circuit Court of Appeals corrected, and that for said purpose a writ of error and citation thereon should issue as by law and ruling of the court provided, and therefore, premises considered, your petitioner prays that a writ of error issue to the end that said proceedings of the District Court of the

United States of the Western District of Washington may be reviewed and corrected, the said errors in said record being herewith assigned, and presented herewith, and that pending the final determination of said writ of error by said Appellate Court an order may be entered herein that all further proceedings be suspended and stayed, and that pending such final determination said defendant be admitted to bail.

JOHN F. DORE,

JOHN J. SULLIVAN,

Attorneys for Petitioner, Plaintiff in Error.

Acceptance of service of within petition acknowledged this 25 day of April, 1923.

THOS. P. REVELLE,

Attorney for Pltf.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 25, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [12]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Assignments of Error.

Comes now the above-named defendant and in connection with his petition for writ of error in this cause, submitted and filed herewith, assigns the following errors which the defendant avers and says occurred in the proceedings and at the trial of the above-entitled cause and in the above-entitled court, and upon which he relies to reverse, set aside and correct the judgment and sentence entered herein, and says that there is manifest error appearing upon the face of the record and in the proceedings, in this:

I.

The Court erred in overruling the motion for new trial herein.

II.

The Court erred in overruling the motion for directed verdict at the close of the Government's case.

III.

The Court erred in giving that part of its instruction to the jury wherein it stated that the jury should not convict the defendant because the defendant had been tried and convicted before of the same offense, to which the defendant duly and regularly excepted at the time.

IV.

The Court erred in refusing to instruct the jury to disregard [13] the statement of the United States Attorney, over the objection of the defendant,

to the effect that the defendant was a convict and that, as a convict, he was unworthy of belief.

V.

The Court erred in sentencing the defendant upon both counts of the indictment.

VI.

The Court thereafter entered judgment and sentence against said defendant, upon the verdict of guilty rendered upon said indictment, to which ruling and judgment and sentence the defendant excepted, and now the defendant assigns as error that the Court so entered judgment and sentence upon the verdict.

And as to each and every of said assignments of error, as aforesaid, the defendant says that at the time of making of the order of ruling of the Court complained of, the defendant duly excepted and was allowed an exception wherever the same appears in the record to the ruling and order of the Court.

JOHN F. DORE,
JOHN J. SULLIVAN,
Attorneys for Defendant.

Acceptance of service of within assignments acknowledged this 25 day of April, 1923.

THOS. P. REVELLE,
Attorney for Pltf.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. April 25, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [14]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

**Order Allowing Writ of Error and Fixing Amount
of Bond.**

A writ of error is granted this 25th day of April, 1923, and it is further ordered that pending the review hereon said defendant be admitted to bail, and that the amount of the supersedeas bond to be filed by said defendant be Ten Thousand (\$10,000.00) Dollars.

And it is further ordered that upon said defendant's filing his bond in the aforesaid sum, to be approved by the Judge of this court, he shall be released from custody pending the determination of the writ of error herein assigned.

Done in open court this 25th day of April, 1923.

EDWARD E. CUSHMAN,

Judge.

O. K. as to form.

C. E. HUGHES,

Asst. U. S. Atty.

[Endorsed]: Filed in the United States District Court, Western District of Washington,

Northern Division. Apr. 25, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [15]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Recognizance.

United States of America,
Western District of Washington,
Northern Division,—ss.

BE IT REMEMBERED that, on this 26th day of April, 1923, before me, F. M. Harshberger, Clerk of the District Court of the United States within and for the aforementioned court personally appeared Wesley L. Sischo, as principal, and acknowledged himself to owe the United States of America the sum of Ten Thousand (\$10,000.00) Dollars, herewith deposited in said court in Liberty Bonds of the United States, in the principal sum of \$9750.00 and cash in the sum of \$250.00, if default should be made in the following condition, to wit:

The condition of this recognizance is such that, whereas the said Wesley L. Sischo was on the 23d day of April, 1923, sentenced in the above-entitled

cause to pay a fine of four thousand dollars and to serve a term of imprisonment of seven years at McNeil Island; and, whereas, the said defendant has sued out a writ of error to the Circuit Court of Appeals for the Ninth Circuit; and whereas, the Court has fixed the defendant's supersedeas bond to stay execution on said sentence at ten thousand dollars;

Now, therefore, if the said defendant shall prosecute his said writ of error diligently and to effect, and shall obey and abide by and render himself amenable to all orders which said appellate [16] court shall make or order to be made, and shall surrender himself to perform any judgment made and entered by said appellate court, and shall not leave the jurisdiction of this court without leave being first had and obtained, and shall obey and render himself amenable to any and all orders made or entered by the District Court of the United States for the Western District of Washington, and shall, pursuant to any such order, surrender himself, and will obey and perform any judgment of the Circuit Court of Appeals, then this recognizance to be void; otherwise to remain in full force and effect.

WESLEY L. SISCHO.

Taken and acknowledged before me this 26th day of April, 1923.

[Seal U. S. District Court]

F. M. HARSHBERGER,
Clerk United States District Court.

O. K. this April 26th, 1923.

THOMAS P. REVELLE,
United States District Attorney.
CHARLES P. MORIARTY.

Approved:

EDWARD E. CUSHMAN,
Judge.

Acceptance of service of within recognizance
acknowledged this 25 day of April, 1923.

THOS. P. REVELLE,
Attorney for Pltff.

[Endorsed]: Filed in the United States District
Court, Western District of Washington, Northern
Division. Apr. 26, 1923. F. M. Harshberger,
Clerk. By S. E. Leitch, Deputy. [17]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

WESLEY LEROY SISCHO,
Defendant.

Bill of Exceptions.

BE IT REMEMBERED that in the trial of this
cause on the 19th day of April, 1923, the above-en-
titled matter came on for trial in the above-entitled
court before the Honorable Edward E. Cushman,
one of the Judges of said Court, sitting with a jury,
the plaintiff appearing by C. E. Hughes and
Charles P. Moriarty, Assistant United States At-
torneys, and the defendant appearing in person and

by John F. Dore and John J. Sullivan, his attorneys; a jury was empaneled and the following proceedings had, to wit:

Testimony of Wesley Leroy Sischo.

On Cross-examination by Mr. MORIARTY.

Q. Were you ever convicted of a crime?

A. Yes, sir, I told about that.

Q. In this court? A. No, not in this court.

Q. In the Federal Court?

A. In the Federal Court, yes, sir.

Q. Before Judge Neterer?

A. Before Judge Neterer.

Q. For this same offense?

Mr. DORE.—I object as incompetent, irrelevant and immaterial; it is improper to ask him that.

The COURT.—Objection sustained. [18]

ARGUMENT TO THE JURY.

Mr. HUGHES (Assistant U. S. Attorney).—A man who served time—

Mr. DORE.—I object to that.

The COURT.—Yes.

Mr. SULLIVAN.—I will ask the Court to instruct the jury to disregard it.

The COURT.—Yes.

Mr. HUGHES.—A man who has been convicted of a felony.

Mr. DORE.—I ask the Court to instruct the jury to disregard that.

The COURT.—As I recall, he said he had been convicted of an offense.

Mr. DORE.—No testimony it was a felony at all.

Mr. HUGHES.—A man who was dealing and selling opium.

Mr. DORE.—I object to that; there is no testimony that he was dealing in and selling opium.

The COURT.—Objection overruled.

CLOSING ARGUMENT.

Mr. MORIARTY.—Are you going to take the word of seven or eight reputable witnesses, or the word of a convict?

Mr. DORE.—“Or take the word of a convict.” I ask your Honor to instruct the jury to disregard that remark.

The COURT.—Motion denied.

JUDGE'S INSTRUCTION.

“I will further instruct you on the weight of evidence and the credibility of witnesses. There has been evidence here that the defendant had incurred a prior conviction. You are not warranted, for that reason, to convict in this case, if you have a reasonable doubt of his guilt in this case. No man should suffer punishment twice for the same offense, if you convict him in this case merely because he has suffered conviction in another case; that is what you would be doing. At the same time the law permits such evidence to be given, where a defendant goes upon the witness-stand; it permits such evidence to be given in order that you may weigh and determine his credit as a witness, because [19] it is only human experience that a man who has been convicted of an offense, in the general average, is not as dependable, and the same reliance is not to be placed upon his statements, either on or off the

witness-stand, as it is in the case of a person who has not suffered such misfortune.”

DANIEL LANDON,

Attorney for Defendant.

Received a copy of the within this 5 day of June, 1923.

THOS. P. REVELLE,

B. E. M.,

Attorney for _____.

[Endorsed]: Lodged in the United States District Court, Western District of Washington, Northern Division. Jul. 5, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 19, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [20]

United States District Court, Western District of Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY LEROY SISCHO,

Defendant.

Order Settling Bill of Exceptions.

NOW, on this 19th day of October, 1923, the above cause came on for hearing on the application of

Wesley Leroy Sischo, the defendant, to settle the bill of exceptions in this cause. Counsel for both parties appeared, and it further appearing to the Court that the time within which to settle and file the bill of exceptions in the foregoing cause has been duly extended, and that said bill as heretofore filed with the clerk is duly and seasonably presented for settlement and allowance, and it further appearing that said bill of exceptions contained all of the material facts occurring upon the trial of the cause, together with the exceptions thereto, and all of the material matters and things occurring upon the trial, except the exhibits introduced in evidence; and the Court being duly advised, it is by the Court

ORDERED, that said bill of exceptions be and it hereby is settled as a true bill of exceptions in said cause, [21] and the Clerk of the court is hereby ordered to file the same as a record in said cause and transmit the same to the Honorable Circuit Court of Appeals for the Ninth Circuit.

EDWARD E. CUSHMAN,

United States District Judge.

Received bill of exceptions this — day of July, 1923.

O. K.—DeWOLFE EMORY,

Asst. U. S. Atty.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 19, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [22]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY LEROY SISCHO,

Defendant.

Praeceptum for Transcript of Record.

To the Clerk of the Above-entitled Court:

You will please prepare copies of the following documents and papers in the above cause, and forward them under your certificate and seal to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, as a transcript of record in said cause, viz.:

1. Indictment.
2. Arraignment.
3. Plead of not guilty.
4. Verdict.
5. Motion for new trial.
6. Recording of hearing motion for new trial.
7. Judgment and sentence.
8. Petition for writ of error.
9. Assignment of errors.
10. Order allowing writ of error.
11. Appeal bond.
12. Bill of exceptions and order settling same.

13. Writ of error.
14. Citation.
15. Praecipe.
16. Clerk's certificate.

W. E. BARNHART,
Attorney for Wesley Leroy Sischo. [23]

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 23, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [24]

In the United States District Court for the Western District of Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY L. SISCHO,

Defendant.

Certificate of Clerk U. S. District Court to Transcript of Record.

United States of America,
Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States District Court for the Western District of Washington, do hereby certify this typewritten transcript of record, consisting of pages numbered from 1 to 24, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and

other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the clerk of said District Court, and that the same constitute the record on return to writ of error herein, from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the plaintiff in error for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

Clerk's fees (Sec. 828, R. S. U. S.) for making record, certificate or return, 41 folios at 15¢	\$6.15
[25]	

Certificate of Clerk to transcript of record, 4 folios at 15¢	\$.60
Seal to said certificate.....	.20

I hereby certify that the above cost for preparing and certifying record, amounting to \$6.95, has been paid to me by attorney for plaintiff in error.

I further certify that I hereto attach and herewith transmit the original writ of error and the original citation issued in this cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District

Court, at Seattle, in said District, this 1st day of November, 1923.

[Seal] F. M. HARSHBERGER,
Clerk United States District Court, Western District of Washington. [26]

United States Circuit Court of Appeals for the
Ninth Circuit.

No. 7263.

WESLEY LEROY SISCHO,
Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,
Defendant in Error.

Writ of Error.

To the Honorable Judges of the District Court for
the Western District of Washington, Northern
Division, GREETING:

Because, in the record and proceedings, as also in
the rendition of the judgment in the District
Court before Honorable Edward E. Cushman, between Wesley Leroy Sischo, plaintiff in Error, and United States of America, defendant in error, a manifest error hath happened, to the great damage of the said Wesley Leroy Sischo, plaintiff in error, as by his complaint appears.

We, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid in this behalf, DO COMMAND YOU, if judgment be therein given, that then under your seal, distinctly and openly,

you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, within thirty days from the date hereof, to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs [27] of the United States should be done.

WITNESS, the Honorable WILLIAM HOWARD TAFT, Chief Justice of the Supreme Court of the United States, the 19th day of October, 1923.

[Seal]

F. M. HARSHBERGER,
Clerk of the United States District Court for the
Western District of Washington.

Allowed:

EDWARD E. CUSHMAN,
Judge.

Received a copy of the within this 1 day of October, 1923.

THOS. P. REVELLE,
B. E. M.,
Attorney for _____,

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 19, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [28]

United States District Court, Western District of
Washington, Northern Division.

No. 7263.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WESLEY LEROY SISCHO,

Defendant.

Citation on Writ of Error.

United States of America,—ss.

The President of the United States of America, to
the United States of America, and to THOMAS
P. REVELLE, United States Attorney for the
Western District of Washington, Northern Di-
vision, GREETING:

You are hereby cited and admonished to be and
appear before the United States Circuit Court of
Appeals for the Ninth Circuit at San Francisco, in
the State of California, within thirty days from
date hereof, pursuant to a writ of error filed in the
Clerk's office of the District Court of the United
States, for the Western District of Washington,
Northern Division, wherein said Wesley Leroy
Sischo, is plaintiff in error, and the United States
of America is defendant in error, to show cause, if
any there be, why judgment in the said writ of
error mentioned should not be corrected and speedy
justice should not be done to the party in that be-
half.

WITNESS, the Honorable EDWARD E. CUSHMAN, Judge of the District Court of the United States for the Western District of Washington, Northern Division, this 19th day of October, 1923.

EDWARD E. CUSHMAN,

United States District Judge.

[Seal] Attest: F. M. HARSHBERGER,
Clerk, United States District Court.

Received a copy of the within this 1 day of October, 1923.

THOS. P. REVELLE,

B. E. M.,

Attorney for _____,

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Oct. 19, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [29]

[Endorsed]: No. 4131. United States Circuit Court of Appeals for the Ninth Circuit. Wesley Leroy Sischo, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Western District of Washington, Northern Division.

Filed November 5, 1923.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.